

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

LOHRAY et al.

Appln. No. 10/509,892

Filed: October 1, 2004

Confirmation No. 1055

Atty. Ref.: 4062-126

T.C. / Art Unit: 1624

Examiner: N.E. Jarrell

FOR: NOVEL ANTIINFECTIVE COMPOUNDS, PROCESS FOR THEIR PREPARATION  
AND PHARMACEUTICAL COMPOSITIONS CONTAINING THEM

\* \* \*

**RESPONSE TO RESTRICTION REQUIREMENT**

January 9, 2007

**Mail Stop Amendment**

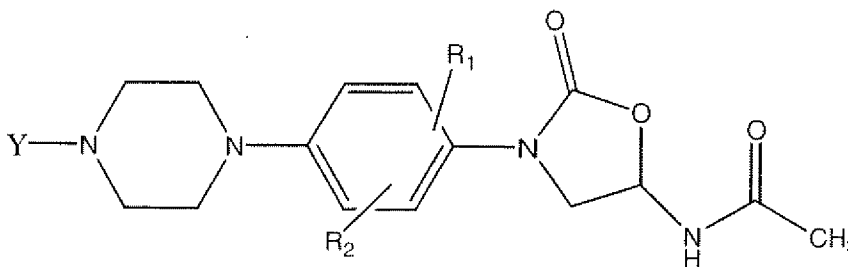
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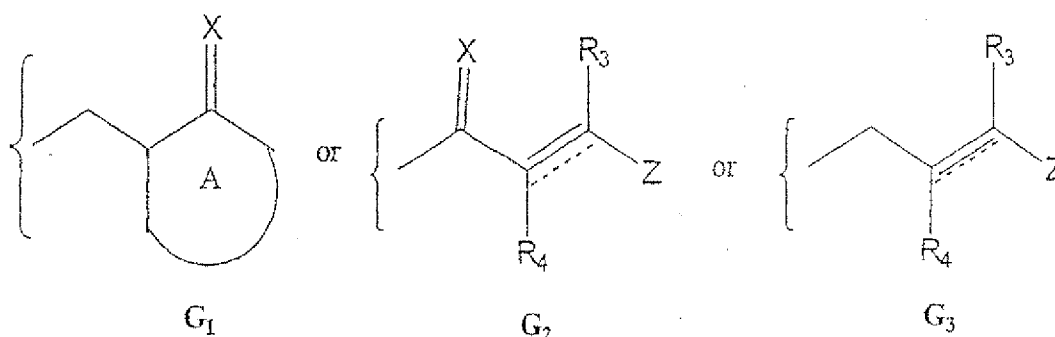
Sir:

In response to the Office Action mailed October 9, 2007, entry and consideration of the following remarks are respectfully requested. Applicants elect Group I (claims 1-8, 11-15 and 18-22) with traverse. Applicants reserve the right to prosecute nonelected subject matter in a further patent application. With regard to the requirement for an election of species from the Markush group in claim 1, the following species is elected (claims 1-22 read on the elected species):



wherein R<sub>1</sub> and R<sub>2</sub> may be the same or different and represent hydrogen, halogen, or a substituted or unsubstituted group selected from the group consisting of alkyl, aralkyl, alkoxy, thio, amino, aminoalkyl, nitro, cyano, formyl, thioalkoxy, cycloalkyl, haloalkyl, and haloalkoxy groups;

Y represents the groups  $G_1$ ,  $G_2$  or  $G_3$ :



wherein  $R_3$  and  $R_4$  may be the same or different and represent H,  $C_1$ - $C_6$  substituted or unsubstituted linear or branched alkyl, halogen, hydroxy, cyano, haloalkyl, haloalkoxy, perhaloalkoxy, thio, or a substituted or unsubstituted group selected from the group consisting of cycloalkyl,  $(C_1$ - $C_{12})$ alkoxy, cyclo( $C_3$ - $C_7$ )alkoxy, aryl, aryloxy, aralkyl, ar( $C_1$ - $C_{12}$ )alkoxy, acyl, acyloxy, carboxylic acid and its derivatives such as esters and amides, hydroxyalkyl, aminoalkyl, mono-substituted or di-substituted aminoalkyl, alkoxyalkyl, aryloxyalkyl, aralkoxyalkyl,  $(C_1$ - $C_{12})$ alkylthio, thio( $C_1$ - $C_{12}$ )alkyl and arylthio; wherein X represents O, S or  $NR^5$  wherein  $R^5$  represents H, substituted or unsubstituted alkyl, or an aryl group;

wherein A represents a substituted or unsubstituted, saturated or unsaturated or partially saturated single or fused ring moiety, optionally containing one or more heteroatoms selected from the group consisting of N, S and O;

wherein Z represents H,  $C_1$ - $C_6$  substituted or unsubstituted alkyl, cyano, haloalkyl, haloalkoxy, perhaloalkoxy, or a substituted or unsubstituted group selected from the group consisting of cycloalkyl, bicycloalkyl,  $(C_1$ - $C_{12})$ alkoxy, cyclo( $C_3$ - $C_7$ )alkoxy, aryl, aryloxy, aralkyl, ar( $C_1$ - $C_{12}$ )alkoxy, heterocyclyl, heteroaryl, heterocyclyl( $C_1$ - $C_{12}$ )alkyl, heteroar( $C_1$ - $C_{12}$ )alkyl, heteroaryloxy, heteroar( $C_1$ - $C_{12}$ )alkoxy, heterocycloxy, heterocyclylalkyloxy, acyl, acyloxy, acylamino, carboxylic acid and its derivatives such as esters and amides, hydroxyalkyl, aminoalkyl, mono-substituted or di-substituted aminoalkyl, alkoxyalkyl, aryloxyalkyl, aralkoxyalkyl,  $(C_1$ - $C_{12})$ alkylthio, thio( $C_1$ - $C_{12}$ )alkyl, arylthio,  $SOR_6$  and  $SO_2R_6$ , where  $R_6$  represents amino, optionally substituted groups

selected from the group consisting of alkyl, aryl, heteroaryl, and heterocyclyl groups;  
and

the dotted line '-----' represents the optional presence of a bond.

Notwithstanding the above election, reconsideration of the restriction requirement is requested because examination of all pending claims would not constitute a serious burden. In particular, the claims of both Groups I and II should be examined in the same application because page 2 of the Office Action describes both invention as drawn to "formula I where variable Ar is phenyl" (i.e., there is no discernible difference between the descriptions of Groups I and II). Thus, claims 9-10 and 16-17 should not be withdrawn from consideration. Similarly, Applicants object to the distinction made on page 2 of the Office Action with regard to Groups III and IV: both are drawn to "formula I that are not embraced by group I" – there is no discernible difference between the descriptions of Groups III and IV.

In the alternative, Applicants disagree with the allegation in the Office Action that the pending claims lack unity of invention, and therefore belong to different groups of inventions. Although they agree with the Examiner's conclusion that the inventions are separately patentable, Applicants' traversal is based on the pending claims being so linked as to form a single general inventive concept under PCT Rule 13.1. Thus, Applicants submit that the pending claims should be examined together in this application.

Applicants earnestly solicit an early and favorable examination on the merits. The Examiner is invited to contact the undersigned if any further information is required.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

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